

PROPOSED AMENDMENT
SENATE AMENDMENTS TO S.B. 1402
(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 36-2981, Arizona Revised Statutes, is amended to read:

36-2981. Definitions

In this article, unless the context otherwise requires:

1. "Administration" means the Arizona health care cost containment system administration.

2. "Contractor" means a health plan that contracts with the administration for the provision of hospitalization and medical care to members according to ~~the provisions of~~ this article or a qualifying plan.

3. "Director" means the director of the administration.

4. "Federal poverty level" means the federal poverty level guidelines published annually by the United States department of health and human services.

5. "Health plan" means an entity that contracts with the administration for services provided pursuant to article 1 of this chapter.

6. "Member" means a person who is eligible for and enrolled in the program, who is under nineteen years of age and whose gross household income meets the following requirements:

~~(a) Beginning on November 1, 1998 through September 30, 1999, has income at or below one hundred fifty per cent of the federal poverty level.~~

~~(b)~~ (a) Beginning on October 1, 1999 and for each fiscal year thereafter, has income at or below two hundred per cent of the federal poverty level.

(b) BEGINNING JULY 1, 2009, AND FOR EACH FISCAL YEAR THEREAFTER, HAS INCOME AT OR BELOW THREE HUNDRED FIFTY PER CENT OF THE FEDERAL POVERTY GUIDELINES AND MEETS THE REQUIREMENTS PRESCRIBED PURSUANT TO SECTION 36-2996.

1 7. "Noncontracting provider" means an entity that provides hospital or
2 medical care but does not have a contract or subcontract with the
3 administration.

4 8. "Physician" means a person licensed pursuant to title 32, chapter
5 13 or 17.

6 9. "Prepaid capitated" means a method of payment by which a contractor
7 delivers health care services for the duration of a contract to a specified
8 number of members based on a fixed rate per member, per month without regard
9 to the number of members who receive care or the amount of health care
10 services provided to a member.

11 10. "Primary care physician" means a physician who is a family
12 practitioner, general practitioner, pediatrician, general internist,
13 obstetrician or gynecologist.

14 11. "Primary care practitioner" means a nurse practitioner who is
15 certified pursuant to title 32, chapter 15 or a physician assistant who is
16 licensed pursuant to title 32, chapter 25 and who is acting within the
17 respective scope of practice of those chapters.

18 12. "Program" means the children's health insurance program **AND**
19 **INCLUDES THE CHILDREN'S HEALTH SHARE PROGRAM ESTABLISHED BY SECTION 36-2996.**

20 13. "Qualifying plan" means a contractor that contracts with the state
21 pursuant to section 38-651 to provide health and accident insurance for state
22 employees and that provides services to members pursuant to section 36-2989,
23 subsection A.

24 14. "Special health care district" means a special health care district
25 organized pursuant to title 48, chapter 31.

26 15. "Tribal facility" means a facility that is operated by an Indian
27 tribe and that is authorized to provide services pursuant to Public Law
28 93-638, as amended.

29 Sec. 2. Section 36-2983, Arizona Revised Statutes, is amended to read:
30 **36-2983. Eligibility for the program**

31 A. The administration shall establish a streamlined eligibility
32 process for applicants to the program and shall issue a certificate of

1 eligibility at the time eligibility for the program is determined.
2 Eligibility shall be based on gross household income for a member as defined
3 in section 36-2981. The administration shall not apply a resource test in
4 the eligibility determination or redetermination process.

5 B. The administration shall use a simplified eligibility form that may
6 be mailed to the administration. Once a completed application is received,
7 including adequate verification of income, the administration shall expedite
8 the eligibility determination and enrollment on a prospective basis.

9 C. The date of eligibility is the first day of the month following a
10 determination of eligibility if the decision is made by the twenty-fifth day
11 of the month. A person who is determined eligible for the program after the
12 twenty-fifth day of the month is eligible for the program the first day of
13 the second month following the determination of eligibility.

14 D. An applicant for the program who appears to be eligible pursuant to
15 section 36-2901, paragraph 6, subdivision (a) shall have a social security
16 number or shall apply for a social security number within thirty days after
17 the applicant submits an application for the program.

18 E. In order to be eligible for the program, a person shall be a
19 resident of this state and shall meet title XIX requirements for United
20 States citizenship or qualified alien status in the manner prescribed in
21 section 36-2903.03.

22 F. In determining the eligibility for all qualified aliens pursuant to
23 this article, the income and resources of a person who executed an affidavit
24 of support pursuant to section 213A of the immigration and nationality act on
25 behalf of the qualified alien and the income and resources of the spouse, if
26 any, of the sponsoring individual shall be counted at the time of application
27 and for the redetermination of eligibility for the duration of the
28 attribution period as specified in federal law.

29 G. Pursuant to federal law, a person is not eligible for the program
30 if that person is:

31 1. Eligible for title XIX or other federally operated or financed
32 health care insurance programs, except the Indian health service.

1 2. Covered by any group health plan or other health insurance coverage
2 as defined in section 2791 of the public health service act. Group health
3 plan or other health insurance coverage does not include coverage to persons
4 who are defined as eligible pursuant to ~~the~~ A premium ~~sharing~~ ASSISTANCE
5 program.

6 3. A member of a family that is eligible for health benefits coverage
7 under a state health benefit plan based on a family member's employment with
8 a public agency in this state.

9 4. An inmate of a public institution or a patient in an institution
10 for mental diseases. This paragraph does not apply to services furnished in
11 a state operated mental hospital or to residential or other twenty-four hour
12 therapeutically planned structured services.

13 H. A child who is covered under an employer's group health insurance
14 plan or through family or individual health care coverage shall not be
15 enrolled in the program IF THE CHILD IS ELIGIBLE PURSUANT TO SECTION 36-2981,
16 PARAGRAPH 6, SUBDIVISION (a). If the health insurance coverage is
17 voluntarily discontinued for any reason, except for the loss of health
18 insurance due to loss of employment or other involuntary reason, the child is
19 not eligible for the program PURSUANT TO SECTION 36-2981, PARAGRAPH 6,
20 SUBDIVISION (a) for a period of three months from the date that the health
21 care coverage was discontinued. The administration may waive the three month
22 period for any child who is seriously or chronically ill. For the purposes
23 of the waiver, "chronically ill" means a medical condition that requires
24 frequent and ongoing treatment and that if not properly treated will
25 seriously affect the child's overall health. The administration shall
26 establish rules to further define conditions that constitute a serious or
27 chronic illness.

28 I. Pursuant to federal law, a private insurer, as defined by the
29 secretary of the United States department of health and human services, shall
30 not limit enrollment by contract or any other means based on the presumption
31 that a child may be eligible for the program.

1 Sec. 3. Section 36-2985, Arizona Revised Statutes, is amended to read:

2 36-2985. Enrollment cap; program termination; spending
3 limitation

4 A. If the director determines that monies may be insufficient for ~~the~~
5 A program ESTABLISHED PURSUANT TO THIS ARTICLE, the director shall
6 immediately notify the governor, the president of the senate and the speaker
7 of the house of representatives. After consulting with the governor, the
8 administration shall stop processing new applications for the program until
9 the administration is able to verify that funding is sufficient to begin
10 processing applications and the governor agrees that the administration may
11 begin processing applications.

12 B. If the federal government eliminates federal funding for ~~the~~ A
13 program ESTABLISHED PURSUANT TO THIS ARTICLE or significantly reduces the
14 federal funding below the estimated federal expenditures, the administration
15 shall immediately stop processing all applications and shall provide at least
16 thirty days' advance notice to contractors and members that the program will
17 terminate.

18 C. The total amount of state monies that may be spent in any fiscal
19 year by the administration for health care provided under this article shall
20 not exceed the amount appropriated or authorized by section 35-173.

21 D. This article does not impose a duty on an officer, agent or
22 employee of this state to discharge a responsibility or to create any right
23 in a person or group if the discharge or right would require an expenditure
24 of state monies in excess of the expenditure authorized by legislative
25 appropriation for that specific purpose.

26 Sec. 4. Section 36-2995, Arizona Revised Statutes, is amended to read:

27 36-2995. Children's health insurance program fund; sources of
28 monies; use; reversion; claims

29 A. The children's health insurance program fund is established. The
30 administration shall administer the fund and shall use fund monies to pay
31 administrative and program costs associated with the operation of the
32 CHILDREN'S HEALTH INSURANCE program established by this article.

1 B. Separate accounting shall be made for each source of monies
2 received pursuant to subsection C of this section for expenses and income
3 activity associated with the CHILDREN'S HEALTH INSURANCE program established
4 ~~pursuant to~~ BY this article.

5 C. Monies in the fund are comprised of:

6 1. Federal monies available to this state for the operation of the
7 program.

8 2. Tobacco tax and state general fund monies appropriated as state
9 matching monies.

10 3. Gifts, donations and grants from any source.

11 4. Interest paid on monies deposited in the fund.

12 5. Third-party liability recoveries.

13 D. If a gift, a donation or a grant of over ten thousand dollars
14 received from any private source contains a condition, the administration
15 shall first meet with the joint legislative study committee on the
16 integration of health care services to review the condition before it spends
17 that gift, donation or grant.

18 E. All monies in the fund other than monies appropriated by this state
19 do not lapse.

20 F. Monies appropriated from the medically needy account of the tobacco
21 tax and health care fund are exempt from section 35-190 relating to lapsing
22 of appropriations. Notwithstanding section 35-191, subsection B, the period
23 for administrative adjustments extends for only six months for appropriations
24 made for administration covered services.

25 G. Notwithstanding sections 35-190 and 35-191, all approved claims for
26 system covered services presented after the end of the fiscal year in which
27 they were incurred shall be paid either in accordance with this section or in
28 the current fiscal year with the monies available in the funds established by
29 this section.

30 H. Claims for covered services that are determined to be valid by the
31 director and the grievance and appeal procedure shall be paid from the
32 children's health insurance program fund.

1 I. All payments for claims from the children's health insurance
2 program fund shall be accounted for by the administration by the fiscal year
3 in which the claims were incurred, regardless of the fiscal year in which the
4 payments were made.

5 J. Notwithstanding any other law, county owned or contracted providers
6 and special health care district owned or contracted providers are subject to
7 all claims processing and payment requirements or limitations of this chapter
8 that are applicable to noncounty providers.

9 Sec. 5. Title 36, chapter 29, article 4, Arizona Revised Statutes, is
10 amended by adding section 36-2996, to read:

11 36-2996. Children's health share program: fund: program
12 termination

13 A. THE CHILDREN'S HEALTH SHARE PROGRAM IS ESTABLISHED. BEGINNING JULY
14 1, 2009, AN ELIGIBLE CHILD WHOSE FAMILY INCOME IS MORE THAN THE MAXIMUM LEVEL
15 FOR A MEMBER MAY PURCHASE A BENEFITS PACKAGE, AS ESTABLISHED BY THE
16 ADMINISTRATION FOR A MONTHLY PREMIUM THAT IS DERIVED INDEPENDENTLY FROM OTHER
17 ELIGIBILITY CATEGORIES IN THIS ARTICLE.

18 B. A CHILD IS ELIGIBLE PURSUANT TO THIS SECTION IF THE CHILD:

19 1. IS A RESIDENT OF THIS STATE.

20 2. IS A CITIZEN OF THE UNITED STATES OR A LEGAL RESIDENT WHO MEETS THE
21 REQUIREMENTS OF SECTION 36-2903.03, SUBSECTION B OR C.

22 3. NOTWITHSTANDING SECTION 36-2983, SUBSECTION B, SUBMITS AN
23 APPLICATION AS PRESCRIBED BY THE ADMINISTRATION. THE ADMINISTRATION MAY
24 REQUIRE SUBMISSION THROUGH AN ELECTRONIC FORMAT AND ESTABLISH EXCEPTIONS TO
25 THIS REQUIREMENT IN HARDSHIP CASES.

26 4. DEMONSTRATES ON AN ANNUAL BASIS AND IN A MANNER DETERMINED BY THE
27 ADMINISTRATION ONE OF THE FOLLOWING:

28 (a) THE CHILD DOES NOT HAVE COVERAGE AVAILABLE THROUGH A PARENT OR
29 LEGAL GUARDIAN'S CURRENT EMPLOYER OR IS NOT ELIGIBLE FOR AVAILABLE COVERAGE.

30 (b) THE CHILD'S FAMILY IS UNABLE TO AFFORD INDIVIDUAL OR GROUP
31 COVERAGE BECAUSE THE CHILD'S COVERAGE WOULD EXCEED FIVE PER CENT OF THE
32 FAMILY INCOME OR BECAUSE THE TOTAL COST OF COVERAGE FOR THE CHILD IS GREATER

1 THAN ONE HUNDRED FIFTY PER CENT OF THE MONTHLY PREMIUM COST ESTABLISHED UNDER
2 THIS SECTION.

3 (c) THE CHILD OR A MEMBER OF THE CHILD'S IMMEDIATE FAMILY IS SUBJECT
4 TO A PREEXISTING CONDITION EXCLUSION.

5 (d) THE CHILD IS TRANSFERRING FROM ANOTHER PROGRAM UNDER THIS CHAPTER.

6 (e) THE CHILD IS A SIBLING OF A CHILD WHO IS ELIGIBLE PURSUANT TO THIS
7 SECTION.

8 C. THE DIRECTOR SHALL ADOPT RULES TO IMPLEMENT THIS SECTION AND TO
9 PRESCRIBE THE FOLLOWING:

10 1. THE APPLICATION PROCESS.

11 2. THE COLLECTION OF ENROLLMENT FEES, COPAYMENTS AND MONTHLY PREMIUMS
12 FOR PROGRAM ENROLLEES. THE ADMINISTRATION MAY REQUIRE PAYMENT FOR COST
13 SHARING IN AN ELECTRONIC FORMAT.

14 3. COVERED SERVICES AND SERVICE AND BENEFIT LIMITATIONS.

15 D. ALL COVERED SERVICES SHALL BE PROVIDED BY HEALTH PLANS THAT HAVE
16 CONTRACTS WITH THE ADMINISTRATION PURSUANT TO SECTION 36-2906. THE
17 ADMINISTRATION MAY SELECT A LIMITED NUMBER OF HEALTH PLANS TO PARTICIPATE IN
18 THE PROGRAM BASED ON A METHODOLOGY THAT CONSIDERS COST MANAGEMENT AND QUALITY
19 MEASUREMENT AS DETERMINED BY THE ADMINISTRATION. THE ADMINISTRATION SHALL
20 CONSIDER FOR PARTICIPATION ONLY PLANS THAT AGREE TO ACCEPT FULL FINANCIAL
21 RISK FOR SERVICES PROVIDED. THE ADMINISTRATION MAY FACILITATE PURCHASE OF
22 REINSURANCE.

23 E. UNLESS OTHERWISE DIRECTED BY THE ADMINISTRATION, THE HEALTH PLANS
24 SHALL PROVIDE COVERED MEDICALLY NECESSARY HEALTH AND MEDICAL SERVICES, WHICH
25 MAY INCLUDE SERVICES LISTED IN SECTION 36-2989. THE ADMINISTRATION SHALL
26 DETERMINE COVERED SERVICES BUT SHALL NOT INCLUDE SERVICES FOR PREGNANCY,
27 LABOR AND DELIVERY. THE ADMINISTRATION SHALL ESTABLISH ACTUARIALLY SOUND
28 CAPITATION RATES. PARTICIPATING PLANS SHALL USE THE ADMINISTRATION'S
29 REIMBURSEMENT RATES ESTABLISHED PURSUANT TO SECTION 36-2903.01, SUBSECTION H
30 PLUS FOURTEEN PER CENT AS A DEFAULT RATE IF A CONTRACT DOES NOT EXIST BETWEEN
31 A CONTRACTOR AND A PROVIDER.

1 F. THE ADMINISTRATION MAY IMPOSE AND ADJUST ENROLLMENT FEES,
2 COPAYMENTS AND PREMIUMS. THE ADMINISTRATION MAY TIER MONTHLY PREMIUMS BASED
3 ON THE MONTHLY CAPITATION RATE, THE BENEFIT LEVEL, THE COSTS OF ADMINISTERING
4 THE PROGRAM AND REINSURING FOR SERVICES AND THE ENROLLEE'S GROSS HOUSEHOLD
5 INCOME. THE ADMINISTRATION MAY DEVELOP ANNUAL CONTRACT REQUIREMENTS WITH
6 EXEMPTIONS TO THOSE REQUIREMENTS. THE ADMINISTRATION MAY REQUIRE PAYMENT FOR
7 COST SHARING IN AN ELECTRONIC FORMAT. MONTHLY PREMIUMS AND ENROLLMENT FEES
8 MUST BE COLLECTED BY THE ADMINISTRATION.

9 G. EXCEPT AS OTHERWISE PROHIBITED BY LAW, THE ADMINISTRATION MAY
10 IMPOSE AND ADJUST COPAYMENTS COLLECTED PURSUANT TO THIS SECTION FOR THE
11 FOLLOWING COVERED SERVICES:

- 12 1. OUTPATIENT VISITS.
- 13 2. EMERGENCY ROOM VISITS.
- 14 3. PRESCRIPTION MEDICATIONS.
- 15 4. OCCUPATIONAL, PHYSICAL AND SPEECH THERAPY.
- 16 5. BEHAVIORAL HEALTH SERVICES.
- 17 6. ANY OTHER SERVICE AS PRESCRIBED BY THE ADMINISTRATION.

18 H. THE ADMINISTRATION MUST NOTIFY THE PARENT OR LEGAL GUARDIAN OF A
19 CHILD WHO IS PAYING A PREMIUM OF ANY CHANGES IN THE PREMIUM, ENROLLMENT FEE
20 OR COPAYMENT. THE ADMINISTRATION, PURSUANT TO ALL APPLICABLE LAWS, MAY
21 CANCEL POLICIES FOR NONPAYMENT OF A PREMIUM.

22 I. IF THE DIRECTOR DETERMINES THAT ESTABLISHED PREMIUMS MAY BE
23 INSUFFICIENT FOR THE SERVICES PROVIDED PURSUANT TO THIS SECTION, THE
24 ADMINISTRATION MAY STOP PROCESSING APPLICATIONS UNTIL THE ADMINISTRATION IS
25 ABLE TO VERIFY THAT FUNDING IS SUFFICIENT TO CONTINUE THE PROGRAM.

26 J. THE ADMINISTRATION AND THE PARTICIPATING PLANS MAY IMPLEMENT
27 PROGRAMS AND INCENTIVES TO PROMOTE WELLNESS, PHYSICAL ACTIVITY AND CHRONIC
28 DISEASE MANAGEMENT.

29 K. THE CHILDREN'S HEALTH SHARE FUND IS ESTABLISHED CONSISTING OF
30 PREMIUMS AND ENROLLMENT FEES COLLECTED PURSUANT TO SUBSECTION C OF THIS
31 SECTION, AS WELL AS GIFTS, GRANTS AND OTHER MONIES RECEIVED BY THE
32 ADMINISTRATION TO PROVIDE SERVICES PURSUANT TO THIS SECTION. THESE MONIES DO

1 NOT REVERT TO THE STATE GENERAL FUND AT THE END OF A FISCAL YEAR. THE
2 ADMINISTRATION SHALL ADMINISTER THE FUND. THE ADMINISTRATION SHALL USE FUND
3 MONIES TO PAY FOR THE SERVICES AND COSTS ASSOCIATED WITH PERSONS WHO ARE
4 ELIGIBLE PURSUANT TO THIS SECTION. ON NOTICE FROM THE ADMINISTRATION, THE
5 STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY
6 SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE
7 FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

8 L. THE PROGRAM ESTABLISHED BY THIS SECTION TERMINATES ON JULY 1, 2018
9 PURSUANT TO SECTION 41-3102.

10 Sec. 6. Exemption from rule making

11 For the purposes of this act, the Arizona health care cost containment
12 system administration is exempt from the rule making requirements of title
13 41, chapter 6, Arizona Revised Statutes, for one year after the effective
14 date of this act."

15 Amend title to conform

PAULA ABOUD

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C: jcs